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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,437	04/06/2001	Pasquale A. Patullo	330501.00002	6173
27160	7590	04/04/2005	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 525 WEST MONROE STREET CHICAGO, IL 60661-3693			MOONEYHAM, JANICE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	<b>Application No.</b> 09/828,437	<b>Applicant(s)</b> PATULLO ET AL.	
	<b>Examiner</b> Janice A. Mooneyham	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



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### **DETAILED ACTION**

1. This is in response to the applicant's communication filed on November 16, 2004, wherein:

Claims 1-27 are currently pending;

Claims 1, 4, 9, 12-13, 21, 24 and 25 are currently amended.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, the applicant has added the additional claim language:

“means for determining whether the user is a direct customer or a travel agent”

It is unclear to the Examiner what the “means” structure is.

Claims 2-10 are dependent on Claim 1.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 13-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and

(2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, a method of determining whether the user is a direct customer or a travel agent, receiving travel parameters, generating a listing of one or more travel arrangements and displaying the listing does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user, by use of a pencil and paper or manually. These steps only constitute an idea of how to make travel arrangements.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

In the present case, the language in the preamble of Claim 13 for a "method for making travel arrangements upon request by a user of a computer network" is nominal or trivial use of a computer. There is not technology in the body of the claims.

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4. Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP Section 2105 states as follows:

If the broadest reasonable interpretation of the claimed invention as a whole encompasses a human being, then a rejection under 35 U.S.C. 101 must be made indicating that the claimed invention is directed to nonstatutory subject matter. Furthermore, the claimed invention must be examined with regard to all issues pertinent to patentability, and any applicable rejections under 35 U.S.C. 102, 103, or 112 must also be made.

It appears for the specification, page 3 lines 27-28, that the means for determining whether the user is a direct customer or a travel agent is the user. The applicant states in the specification that the "user indicates whether they are a direct customer or a travel agency (step 12).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Lynch et al (6,018,715) (hereinafter referred to as Lynch).

Referring to Claims 1-10:

Lynch discloses a reservation system for making travel arrangements upon request by a user, the system comprising:

means for determining whether the user is a direct is a direct customer or a travel agent (Fig. 3 (106), column 5, lines 31-35 - system 10 under the control of decision engine module 16 determines the identity of the traveler, the business entity which employs the traveler (if applicable), and the travel agency of which the individual is a customer (if applicable)) .

means for receiving travel parameters associated with a desired travel option (Figure 2-workstation 34 – a user of system 10, such as a travel agent, may input and receive travel and customer related information through any workstation (34), col. 4, lines 57-61).

means for generating a listing of one or more travel arrangements in accordance with the travel parameters (Decision engine module (16) - col. 3, lines 16-21); and

means for displaying the listing of one or more travel arrangements (Figure 2 - workstation 34 (col. 4, lines 57-61)

Referring to 2, 4-6, and 11:

Lynch discloses travel parameters as set forth in claims 4 and 11 (Travel Request Information Fig. 3 (104)) which includes time and dates of travel and types of services needed, col. 4, lines 13-18).

Lynch does not discloses a system wherein the listing includes a plurality of room accommodations and pricing information, wherein said listing includes information relating to whether children are allowed, wherein said listing indicates unavailability information, or wherein pricing information is provided are determined to be non-functional descriptive data This data does not alter the structure of the system. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*,

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703 F 2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994).

An apparatus must be distinguished from the prior art in terms of structure rather than function alone (MPEP 2114). The system in Lynch is fully capable of processing and displaying this type of information.

Referring to Claims 3 and 8-10:

Lynch discloses a means for displaying (workstation 34). The type of data displayed is non-functional descriptive data, not functionally interrelated with the structure. Furthermore, the system of Lynch is fully capable of displaying images and flight options

Referring to Claim 7:

Lynch discloses a system further including a means for accessing an associated computer network (Figure 2).

Referring to Claim 12;

Lynch discloses a reservation system including means for generating a confirmed travel arrangement without receipt of payment for the arrangement (col. 4, lines 13-24 – system 10 determines a recommended travel plan or policy that balances between the preferences of the individual traveler).

Referring to Claim 25:

Lynch discloses a reservation system making travel arrangements comprising:

a first data processing system (Processing network 12) for determining whether the user is a direct customer or a travel agent (col. 5, lines 31-35, receiving travel parameters, generating a listing in accordance with the parameters and displaying the listing (col. 3, lines 12-21); and

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at least one database (Figure 1 (14)). The databases of Lynch are fully capable of storing travel arrangements and pricing information.

Referring to Claim 26 and 27:

Lynch discloses a system comprising a computer (Fig. 2 (32)) for polling a first data processing system to transfer travel arrangement information (preferred travel plan) to a second data processing system (col. 3, lines 12-15 – Processing network 12 may consist of a plurality of interconnected processors).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al (US 2002/0156661) (hereinafter referred to as Jones) in view of Among et al (US 2003/0110063) (hereinafter referred to as Among).

Referring to Claims 1 and 13:

Jones discloses a method and system for making travel arrangements using a computer network, comprising:

receiving travel parameters associated with a desired travel option (Figure 2A (200), page 2 [0031, 0039] );

generating a listing of one or more travel arrangements in accordance with the travel parameters (page 2 [0030-0031]) , said listing including pricing information associated with the

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travel parameters,(Figure 3B Available flights on 9/7 and prices shown, page 3 [0045], Figure 8B); and

displaying the listing of the one or more travel arrangements (page 2 [0031], page 3 [0045], Figure 8B and Figure 8D).

Jones does not disclose the step of determining whether the user is a direct customer or a travel agent.

However, Among discloses a step of determining (login) whether is the user is a direct customer or a travel agent (Figure 1 (101), Figure 3 (300) page 5 [0052])

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Among with disclosure of Jones since this allows for tracing of sales by an individual or by an entity and aids travel agents in managing commission payments.

Referring to Claims 2 and 14:

Jones discloses a method and system wherein said listing includes a plurality of room accommodations, pricing information for the plurality of room accommodations. (Fig. 2A (230), Fig. 4A (400), page 1 [0008], page 2 [0030], page 3 [0047]).

Jones does not disclose the pricing information for the plurality of room accommodations *with one or more categories of airfare*. The Examiner is reading this to mean that the component prices of a package are shown, eg., a total package price includes the cost of a room at a certain dollar amount and the cost of a flight at a specified dollar amount.

Among discloses the individual package component prices (Fig. 4 (401-406) which includes airline price data and hotel (accommodation) price data.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Among with the disclosure of Jones since this allows the customer to see that the customer is getting a better discount by booking flights and accommodations together in a package as opposed to making several independent reservations.

Referring to Claims 3 and 15:

Jones discloses a method and system wherein said method further comprises displaying images associated with the plurality of room accommodations, in response to selection of said plurality of room accommodations (Figs. 4A (420), and 4B).

Referring to Claims 4 and 16:

Jones discloses a method and system wherein said travel parameters include accommodation name, arrival date, departure date, departure location, and number of guests (Fig. 4A, page 2 [0031], [0039]).

Referring to Claims 5 and 17:

Jones does not disclose a method and system wherein said listing indicates unavailability information associated with the travel arrangement, said unavailability information including dates of unavailability.

However, Among discloses a method and system wherein the packaging mechanism checks for availability and unavailability of inventory and wherein a third party can adjust availability and price of said options in accordance with inventory levels (page 2 [0021], page 3 [0022] and page 4 [0039]).

Furthermore, it is old and well known for resort or reservation information to provide dates of unavailability or dates of reduced rates or dates when rates do not apply when providing

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information to a customer. For example, during the summer months, rates at beach resorts are higher than during the winter months. If a resort routinely handles a conference or event, then the resort will be unavailable to book reservations at that time if all of the rooms have been reserved. Reservation information, such as advertisements, brochures, etc. often provide this information along with pictures of the resort, cabin, etc and prices and other information. The information is usually presented with a disclaimer that rates will not apply during certain time periods or during certain times of the year.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Among with the disclosure of Jones so as to prevent considering a booking for a reservation that is not available.

Referring to Claims 6 and 18:

Jones does not disclose a method and system wherein said pricing information associated with the one or more categories of airfare is provided without regard to availability of seating

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the disclosure of Jones the ability to provide pricing information without regard to airfare because it allows a user to obtain a sense of the market prior to making a selection.

Referring to Claims 7 and 19:

Jones does not disclose a method or system further comprising accessing an associated computer network to determine the availability of seating after selection of a listed travel arrangement.

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However, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the disclosure of Jones the ability to determine seating after selection of a listed travel arrangement so that once a user reviewed the pricing information provided without regard to availability, the user then could make a selection of any attractive travel arrangement deals to see if there was seating available.

Referring to Claims 8 and 20:

Jones discloses a method and system wherein said method further comprises displaying one or more flight options after the associated computer network is accessed (Figure 3A (340), page 3 {0041-0045})

Referring to Claims 9 and 21:

Jones discloses a method and system wherein said displayed one or more flight options includes an indication a limited flight availability (Fig. 3B) Availability of flights).

Referring to Claims 10 and 22:

Jones does not discloses a method or system wherein the method and system further comprises displaying price information and adjusted price information associated with the travel arrangements

However, Among discloses a method and system further comprises displaying price information and adjusted price information associated with the travel arrangements (Figure 4 (407) Special pricing- rate is automatically applied)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Among with the disclosure of Jones so as to allow the user to see the saving from any special rate adjustment, to provide information on commission payment, and to

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provide a comparison for the user as to alternative options, ie, whether using a travel agent increases the cost and if so, by how much.

Referring to Claims 11 and 23:

Jones discloses a method and system wherein said travel parameters include departure date and departure location, wherein dates associated with the airfare are determined in accordance with the departure date and departure location (page 2 [0039]).

Referring to Claims 12 and 24:

Jones discloses a method and system further comprising generating a confirmed travel arrangement without receipt of payment for the travel arrangement (Fig. 7, page 4 [0056]).

Referring to Claims 25-27:

Jones discloses a system with a first data processing system (120) for receiving travel parameters and generating a listing, a database for storing a plurality of travel arrangements (140), a polling computer (100) for transferring data to a central reservation system (130) and a flight data server (116) (page 2 [0034-37]).

### ***Response to Arguments***

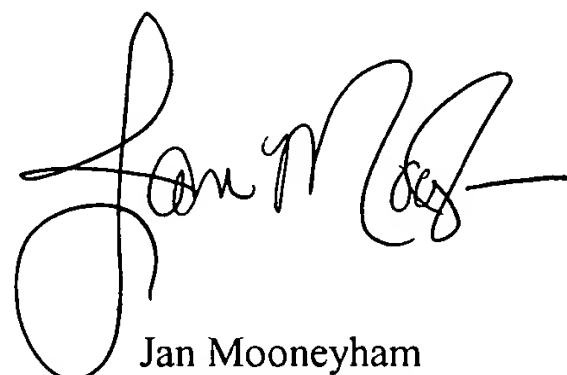
Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janice A. Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Jan Mooneyham", with a large, stylized initial "J" and a horizontal line extending from the end of the signature.

Jan Mooneyham  
Patent Examiner  
Art Unit 3629